

LEGISLATION AND PUBLIC
EDUCATION COMMITTEE

BILL ANALYSIS

Board	Author	Bill Number
California Integrated Waste Management Board	Woods	AB 84
Sponsor	Related Bills	Date Amended
California Rice Industry Association & Rice Producers Association	AB 228 (Midgen)	March 10, 1997

BILL SUMMARY:

AB 84 would define "products manufactured with residues from agricultural cropping activities" to include, but not be limited to, copy paper, stationery, newsprint, cardboard, fiberboard, pallets, sheeting, boards, tiles, insulation, and compost. Additionally, AB 84 would implement a pilot program for State agencies to provide price preferences for products manufactured with residues from agricultural cropping activities.

BACKGROUND:

AB 84 is sponsored by the California Rice Industry Association and the Rice Producers Association. According to the sponsors, the intent of the bill is to promote a market for products that utilize rice straw. Enactment of this bill could aid California rice farmers in meeting air quality objectives mandated by the Agricultural Burning Program and the Rice Straw Burning Act of 1991 (Health and Safety Code § 41865, AB 1378, Connelly, Chapter 787, Statutes of 1991).

Paper Recycling Programs:

The State government operates three sets of paper recycling programs. In the first set of programs, State and local agencies collect recyclable paper from their own offices and facilities and sell this recyclable paper to paper recyclers. In the second program, State agencies offer price preferences up to five percent, for paper made from postconsumer or secondary materials. In the third program, the CIWMB certifies that newsprint sold in California contains a minimum of 40 percent of recycled paper and that as of January 1, 1996, 35 percent of the newsprint sold to be used in California must be of recycled-content.

Departments That May Be Affected		
Department of General Services, Air Resources Board		
Committee Recommendation	Committee Chair	Date
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In 1992, the CIWMB adopted a report, *The State's Role in Market Development for Recycling*. The report assessed progress made in implementing the State mandated procurement programs for specified products and presented an analysis of the significant factors influencing the State's role in procurement preferences for recycled goods and materials. Additionally, the report presented information on procurement efforts by local governments, other states, and the Federal government.

The report found that while progress was being made in procurement practices, it was proceeding slowly. It was noted that each product presents unique factors affecting the procurement process, such as price, availability, quality, and specifications (as established by DGS) that may inadvertently prevent purchase of a recycled content product. The report assessed the procurement potential of paper, compost and co-compost products, glass, oil, plastics, solvents, paints, and tires. The report recommended that a combination of increased price preferences, minimum content standards, and additional personnel resources would improve the procurement of recycled content products at the State and local government levels.

Management of Rice Straw:

The Rice Straw Burning Reduction Act, which was enacted in 1991, requires progressive reductions in the number of acres where rice straw burning is allowed. By the year 2000, 125,000 acres, or 25 percent of each grower's land, whichever is less, can be burned. The fewer acres that can be burned will increase the potential for more rice straw to be disposed in landfills near rice-growing areas.

In 1996, AB 3345 (Bustamante, Chapter 991, Statutes of 1996) was enacted to require the CIWMB, by December 31, 1997, to conduct a feasibility study on expanding the use of agricultural and forest waste in the manufacture of commercial products. According to the sponsors, the purpose of AB 3345 was to identify the economic benefits of the productive use of agricultural and forest waste in the development of commercial products composed of these recycled materials. The sponsor believed that the study would help engender stronger pro-recycling political support from areas and communities where it does not presently exist. The CIWMB is in the process of preparing this report.

Currently, only a small portion of the agricultural waste generated every year is disposed in California's landfills. Most of this waste is either burned in the field, burned in wood waste powerplants or left in the field or forest. A small amount is used in the manufacture of wood or other commercial products.

The Air Resources Board (ARB) and the Department of Food and Agriculture (DFA), in their 1995 Report to the Legislature on the rice burning phase down, indicate that over 50 alternatives to field burning were identified. Most, if not all of these alternatives, were considered to be economically infeasible on any large scale. The primary potential commercial uses include chip and fiberboard, paper products, wallboard and paneling, rice straw bales, compost, solid fuel for power generation, animal feed and bedding, and ethanol and methanol for fuels.

RELATED BILL

AB 228 (Midgen) is related to this bill. AB 228 would include as a consumer of newsprint for purposes of the California Integrated Waste Management Act of 1989 (recycled-content newsprint

program) any State agency that uses newsprint in a print or publishing operation. AB 228 passed the Assembly Natural Resources Committee (11-1) on March 11, 1997. The bill has been referred to the Assembly Appropriations Committee; no hearing date has been scheduled.

EXISTING LAW

Federal Law (Executive Order No. 12995, issued on March 27, 1995):

1. Requires that printing and writing paper purchased by Federal agencies contain 20 percent postconsumer material by the end of 1994 and 30 percent by the end of 1998.
2. Prohibits any increased Federal spending on paper goods.

State Law:

1. Provides that it is the intent of the Legislature to encourage the procurement of recycled paper products by various State agencies (uncodified law).
2. Provides a pilot program, which sunsetted on January 1, 1997, to fund claims submitted by State agencies to provide the price preferences for recycled paper products, as defined, as well as set percentage goals for the purchase of recycled paper (Public Contract Code [PCC] Section 12162).
3. Provides that the goals for the purchase of recycled paper products and price preferences for those products will remain in effect until January 1, 2001 (PCC Section 12162).
4. Defines "recycled paper" as a paper product as a paper and woodpulp paper product containing not less than 50 percent, by fiber weight, of secondary and postconsumer material and with not less than 10 percent of the fiber weight consisting of postconsumer material (PCC Section 10507).
5. Defines "recycled paper product" as all paper and woodpulp products with not less than 50 percent, by fiber weight, of secondary and postconsumer material and with not less than 10 percent of the fiber weight consisting of postconsumer material (PCC Sections 10855, 12161 and 12301).
6. Defines "recycled-content high grade, bleached printing and writing papers" as all paper and woodpulp products with not less than 50 percent, by fiber weight, of secondary and postconsumer material and with not less than 10 percent of the fiber weight consisting of postconsumer material (Public Resources Code [PRC] Section 42202).
7. Defines "postconsumer material" as the finished material which would normally be disposed of as a solid waste, having completed its life cycle as a consumer item (PCC Sections 10507, 10855, 12161 and 12301 and PRC Section 42202).

8. Defines "secondary material" as fragments of products or finished products of a manufacturing process, which has converted a virgin resource into a commodity of real economic value, and includes postconsumer material, but does not include fibrous waste generated during the manufacturing process such as fibers recovered from wastewater or trimmings of paper machine rolls (mill broke), wood slabs, chips, sawdust or other wood residue from a manufacturing process (PCC Sections 10507, 10855, 12161 and 12301 and PRC Section 42202).
9. Increases the postconsumer material content of recycled papers mentioned above, effective January 1, 1999 (PCC Sections 10507, 10855, 12161 and 12301 and PRC Section 42202).
10. Requires no less than 20 percent of fiber weight of postconsumer materials beginning December 31, 1994, for the following types of recycled papers: high speed copier, offset paper, forms bond, computer printout paper, carbonless paper, file folders, white wove envelopes, and for other uncoated printing and writing papers, such as writing and office paper, book paper, cotton fiber paper containing 25 to 75 percent cotton fiber, and cover stock (PCC Sections 10507, 10855, 12161, 12301, and PRC Section 42202).
11. Increases to no less than 30 percent of fiber weight of postconsumer materials beginning December 31, 1998, for the types of recycled papers mentioned in #9 above (PCC Sections 10507, 10855, 12161, 12301, and PRC Section 42202).
12. Requires progressive reductions in the number of acres where rice straw burning is allowed. By the year 2000, 125,000 acres, or 25 percent of each grower's land, whichever is less, can be burned (Health and Safety Code Section 41865).

ANALYSIS

AB 84 would:

1. Define "products manufactured with residues from agricultural cropping activities" to include, but not be limited to, copy paper, stationery, newsprint, cardboard, fiberboard, pallets, sheeting, boards, tiles, insulation, and compost;
2. Require State agencies and the Legislature to give purchasing preference to products manufactured with residues from agricultural cropping activities;
3. Require the Department of General Services and the Legislature to require the persons with whom they contract to use, to the maximum extent economically feasible in the performance of the contract work, these products manufactured with residues from agricultural cropping activities;
4. Require the CIWMB to implement a pilot program to provide price preferences for products manufactured with residues from agricultural cropping activities;

5. Specify that the maximum dollar amount of preference allowable under this measure when combined with other State purchasing preference programs, such as the Economic and Employment Incentive Act and the Target Area Contract Preference Act, is \$100,000 per contract;
6. Specify that the maximum preference is limited to \$50,000 per contract when the preference would preclude an award to a small business offering products not made from residues of agricultural cropping activities;
7. Specify that no more than \$300,000 total or \$100,000 annually, shall be expended for the purposes of implementing the pilot program;
8. Provide the pilot program does not become operative unless funding is made available;
9. Require the CIWMB, in conjunction with its annual report, to report to the Legislature on the price preferences; and
10. Require the CIWMB, on or before March 31, 2000, to report to the Governor and the Legislature on the pilot program, including recommendations concerning the continuation or modification of the program.

COMMENTS

Waste Diversions and Environmental Benefits: The CIWMB is supportive of activities aimed not only at preventing residues from agricultural cropping activities from being landfilled, but also providing the basis for new enterprise development particularly in rural counties throughout California. The CIWMB has supported numerous rice straw projects including a rice straw bale soundwall and the use of this material in paper product applications. Further by finding alternative uses for residues from agricultural cropping activities, particularly rice straw, there is the added benefit that this material will not be disposed in solid waste landfills and more importantly, fewer rice fields will be burned, which will greatly decrease air pollution.

Premature Legislation. Last year AB 3345 (Bustamante, Chapter 991, Statutes of 1996) was enacted, which required the CIWMB to do a feasibility study on expanding the use of agricultural waste and forest waste in the production of commercial products. The CIWMB is required to transmit this study to the Governor and the Legislature by January 1, 2000. This bill was not excluded by AB 116 (Speier, Chapter 970, Statutes of 1996), which provided for a moratorium on reports to the Legislature and the Governor.

It would be prudent to wait until the CIWMB's report on the potential uses of agricultural and forest waste is done before seeking other solutions for the use of this secondary material. While the CIWMB is supportive of activities aimed at preventing residues from agricultural cropping activities from being landfilled in California, it is not clear that AB 84 will succeed in encouraging the use of rice straw in the manufacture of products as an alternative to disposal.

Success of Present Pilot Program: Under the Public Contracts Code, there was a pilot program, which sunsetted on January 1, 1997, that required State agencies to give purchase preference to recycled paper products, as defined, as well as set percentage goals for the purchase of recycled paper. The pilot program was included in a section that will remain in effect until January 1, 2001. This pilot preference program for recycled paper products has never been used. The purpose of the pilot program was to focus on waste types (paper and paper products), which were the largest portion of the wastestream, in order to encourage State use of recycled paper products, rather than paper products made from virgin material. No State agency submitted a claim to be reimbursed for a qualified purchase of a recycled product using the price preferences provided. The lack of use of this pilot preference program indicates that subsidies were not needed in order for State agencies to buy recycled-content paper products. There are several probable reasons for the lack of use for the purchase preferences:

- The preferences did not cover fine printing and writing papers, by far the most common purchase for State agencies.
- The State had been promoting the use of recycled-only bids and requiring recycled content products as opposed to agencies simply asking for paint, for instance, and receiving bids for both recycled and nonrecycled products. By specifying a recycled product, State agencies were being proactive and more successful at purchasing recycled-content products, however, this approach short-circuited the price preferences by eliminating the possibility that both a recycled product and a nonrecycled product were competing for the contract, and the recycled-content product was more expensive, but within the allowable price preference.
- Many recycled-content products are actually less expensive than comparable nonrecycled-content products. This favorable price comparison eliminates the need for the price preference.

Effectiveness of Proposed Pilot Program: According to the sponsors, the purpose of AB 84 is to promote a market for products that utilize residues from agricultural cropping activities. While sponsored by the rice industry, enactment of AB 84 would also open the door to productive uses of other crop wastes, including but not limited to orchard trimmings, corn stalks and wheat straw. The addition of this type of material as secondary material would potentially add an enormous amount of material that could be used to make qualified recycled content paper products. However, because there are currently very few facilities commercially using agricultural residue to make recycled paper products, the bill would have no immediate impact. The bill would serve as an inducement to potential investors in such a facility, and to provide alternatives for agricultural residue disposal other than burning, landspreading and landfilling.

One recently developed product using recycled-content material is newsprint that contains rice pulp. A Canadian firm has developed a process that uses rice straw to make pulp which is combined with recovered paper and wood fiber-derived pulp to make paper. The ARB, among several other State agencies and local groups with an interest in finding an economically viable alternative to open burning of rice fields supported the project. Test runs of newsprint using small percentages of rice

straw-derived pulp at Smurfit Newsprint in Pomona, California, were very positive. Seven newspapers, including the *Los Angeles Times*, *Sacramento Bee*, *San Jose Mercury News*, *Orange County Register*, *Santa Rosa Press-Democrat*, *Santa Barbara News Press* and the *Paradise Post* have or will feature a rice straw paper edition or insert in the near future. According to a December 1996 *Cal/EPA Report* article, Undersecretary Peter M. Rooney stated, "We are hopeful that making newsprint out of rice straw can be a viable alternative to burning rice fields. With the rising cost of newsprint and the environmental consequences of agricultural burning, this should be both an economic and public health success."

Enactment of AB 84 would have a direct impact on the State Agency Buy Recycled Campaign (SABRC), which mandates State agencies to purchase specified amounts of recycled-content products and report those purchases to DGS and to the CIWMB. The SABRC has identified eleven product categories from which agencies are to purchase recycled-content products. AB 84 proposes to provide a price preference for products manufactured with residues from agricultural cropping activities. Products made from residues from agricultural cropping residues are not currently included as under the SABRC categories, yet, would still have a purchase and a price preference associated to it. It is inconsistent to have a price preference for a product category not within the mandates for the SABRC.

Typically, these types of product contracts can be in the millions of dollars; however, the \$50,000 cap could prohibit the preference from reflecting the full value, if the preference were upwards of the 10 percent allowed. In some cases, the \$50,000 cap will still prohibit the recycled-content product from qualifying as a low bidder, and therefore, does not result in the recycled-content product being procured.

AB 84 proposes that the price preferences for products manufactured from residues from agricultural cropping activities should be available until July 1, 2001. Although markets for some products, such as compost, already exist and could benefit from such a program, it is unclear that all agricultural cropping materials would attain the same success. It is questionable whether a manufacturer could establish a permitted facility to manufacture new types of products made from rice straw and other agricultural cropping materials, manufacture a finished product, and promote the sales of the product prior to the sunset date of the preference in just three years (the duration of the proposed preference program).

Bill Sets a Precedent: By offering a purchase preference for products manufactured from residues from agricultural cropping activities, AB 84 would set a precedent that feedstock manufactured from agricultural cropping activities should be purchased over recycled-content products, such as postconsumer recycled paper or green waste compost. This would be counterproductive to the goal of the Integrated Waste Management Act, which is to reduce, recycle, and reuse solid waste generated in California to the maximum extent feasible in order for less solid waste to be disposed of in solid waste landfills. The CIWMB is actively working to recycle paper used in State agencies through Project Recycle, so that this material does not end up in solid waste landfills.

Federal Environmental Protection Agency (EPA) Content Requirements: The definitions for recycled paper product, secondary material, and postconsumer material have been the subject of much debate. There have been several revisions and proposed revisions to these definitions including a recent change in the content requirement for the paper product category to coincide with the federal EPA content requirements. 11

Agricultural Cropping Residues Are a Small Part of the Wastestream: The CIWMB estimates that approximately 39.8 million tons of solid waste are disposed of at solid waste facilities. Only a small portion of the agricultural waste generated every year; approximately .2 percent or 69,898 tons is disposed in California's landfills. Most agricultural waste is either burned in the field or in wood waste powerplants or left in the fields. A small amount is used in the manufacture of commercial products.

Unfunded Mandate: Although the bill does not expressly specify a funding source, the bill like impose additional costs of \$33,000 for FY 1997-98 to establish and implement the price preference pilot program and \$133,000 annually for three years for the pilot program, upon the CIWMB from the Integrated Waste Management Account.

This would be a new cost to the CIWMB. As a result of the successful diversion of solid waste from California's landfills, the CIWMB is experiencing declining revenues due to decreased tipping fees. For this reason, less money is available to implement CIWMB programs. Enactment of this legislation could result in less funding for other vital CIWMB programs.

SUGGESTED AMENDMENT

For consistency in statute language, a technical amendment should be made regarding price preferences.

LEGISLATIVE HISTORY

AB 84 was introduced on December 23, 1996. The bill passed the Assembly Consumer Protection, Governmental Efficiency and Economic Development Committee (12-0) on March 18, 1997. The bill was referred to the Assembly Appropriations Committee; no hearing date has been set.

Support: California Rice Industry
Rice Producers Association
Californians Against Waste

Oppose: Unknown at this time.

FISCAL AND ECONOMIC IMPACT

AB 84 would impose costs of \$33,000 (.3 PY) in FY 1997-98 to establish and implement the price preference pilot program and \$133,000 annually beginning FY 1998-99 and continuing for three years until FY 2001-2002 for funding the pilot program. All expenses for this enacted legislation, including cost for the preference pilot program, will be the responsibility of the CIWMB. Although the bill does not specify which fund will pay for the pilot program, the money may come from the Integrated Waste Management Account (IWMA). Due to the dwindling budget of the CIWMB, implementation of price preferences could cause decreased funding for other CIWMB programs.

Specifically, the CIWMB would incur costs for the following activities:

- Establish May 1, 1998, and continue every two years after, price preferences for products manufactured with residues from agricultural cropping activities. Every two years would be of little benefit compared to the costs incurred.
- Set up the preference pilot program six months after the bill is enacted. This would require staff to research "agricultural cropping activities" and bring an agenda item before the CIWMB to set up the pilot program.
- Publish price preferences annually in the CIWMB annual report. After the enactment of AB 116 (Speier, Chapter 970, Statutes of 1996), which provided that State agencies could defer many written reports to the Legislature or the Governor until October 1, 1999, it is questionable whether the CIWMB would be required to do this report. The bill makes the report an explicit requirement of the annual report, but the annual report is not explicitly required under current law.
- Fund and process claims. Make a final report on the preference pilot program. Again, it is questionable after the enactment of Chapter 970 that the CIWMB would be required to make a report.

Of the residues from agricultural cropping activities, the environmental and economic benefits of rice straw paper are potentially significant. First, the rice straw could decrease the use of trees to make paper. Second, the use of the rice straw to make paper could decrease the burning of the straw and the resulting air pollution. Finally, new manufacturing business could be created to use this recycled-content material in products. However, there is also the possibility that enactment of AB 84 could harm those businesses that contract with State agencies but who would not receive price preferences for their products, whether they were manufactured from virgin or recycled-content material.

SUGGESTED AMENDMENT TO AB 84

On page 3, line 33, delete the word "purchase" and insert the word "price"

On page 5, line 13, delete the word "purchase" and insert the word "price"